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File No. City police II/42

Legal **DEPARTMENT**

B **BRANCH** p 5(E).

Subject:—

Rules and Notifications
under the
Bombay City Police Act, 1902

File No. City police II/42

Std. Sect. Slip 24 B c.

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R.T.No.11029
1.12.41

Submitted with reference to para.3 of H.D. note dated 28th November 1941 at page 3 ante.

2. Section 7(2) of the Bombay City Police Act, 1902 empowers the Commr. of Police to impose certain punishments on the members of the subordinate ranks xx of the Police force, subject to such rules and in accordance with such procedure as the Provincial Govt. may from time to time prescribe in this behalf. The rules made by Govt. under Section 7(2) will be found at p.141-151 of the Pocket Edition of the City of Police Act. Rules 8 and 13 of the said rules, which were scrutinised by the R.L.A. (vide U.R. to H.D. No. 730-P dated 17th September 1935), lay down the appellate and revisional authorities for the purposes of appeal or revision application against any order of punishment passed under the said rules and the procedure to be followed by such authorities. For the reasons stated in his letter dated 12th November 1941, the Commissioner of Police is of the opinion that rules 8 and 13(2) may be amended to provide for a retrial of the case when in the opinion of the appellate or revisional authority there had been serious irregularities in the proceedings. The Commissioner has accordingly suggested revised draft rules 8 and 13(2). The revised draft rules drafted by the Commr. are shown to the R.L.A. for scrutiny.

3. There is no legal objection to the proposal of the Commissioner of Police. Revised draft rules are appended.

4. It is presumed that the intention is that a provision should be made only for further departmental enquiry also. In some cases it may not be necessary to have fresh departmental enquiry from the beginning. Revised draft rules provide accordingly.

5. The last sentence of existing rule 8 has been suitably amended to cover the case of difference of opinion among the members of the Board of Appeal in submitting the case for further or fresh departmental enquiry.

yd/-------- 9/12

B.K.S. 28/4.

It is understood from Mr. Barve that after L.D. scrutinizes the implications of the language in the revised rules as proposed by the Commissioner of Police at pages 7-8 ante, H.D. will proceed to put up a draft notification for pre-publication to give effect to the revision, and will refer the draft to this office for legal scrutiny. At this stage the proposals at pages 7-8 ante are scrutinised from the legal point of view, and the following remarks are made:-

Rules 4, 6 and 7 as slightly amended in pencil on page 7 would be in order.

Rule 12 may be left as it is, since the substance added to it by the proposed revision is already enacted by sub-section (3) of section 22 of the City Police Act, and no revision of the rule is necessary.

Rule 13 may be amended as proposed on page 8.

Regarding paragraph 3 of the Commissioner of Police's letter at page 8.

Since it has been held by the High Court that no license under rule 4 need be obtained for the hours from 5 A.M. to 9.30 P.M. it will be necessary to amend Rule 4(TT), A, B and C of the Rules made under clause (h) of section 22(1) of the Act for fixing the proper license fees. The entries in the said rule indicate that a license is necessary even for the hours from 5 A.M. to 9.30 P.M. The H.D. is therefore requested to settle the rate of fees to be levied for granting license for the prohibited period namely 9.30 P.M. to 5 A.M. and then send the proposed amendment to the R.L.A. for scrutiny from the legal point of view, if necessary.

pd/------ 17/4
Remembrancer of Legal Affairs.

U.R. to H.D., No. 3328 dated 17th April 1942.

B.K.S. 28/4

Office of the R.L.A.

It is proposed to amend rules made under clauses (f)(i), (g) and (h) of section 22(1) of the City of Bombay Police Act, 1902. The provisions of section 22(2) of the Act inter alia require the rules made under section 22 to be published in the Bombay Government Gazette and these rules must, therefore, have been published in the Bombay Government Gazette. It will be necessary to mention in the preamble of the draft notification at p.15 ante the notification in which the rules proposed to be amended were published by the Commissioner. The rules printed in the pocket edition of the Act do not indicate the number and date of the notification in which the rules were published. Besides it is not clear whether the rules made under clauses (f),(i) and (g) of section 22(1) and those made under clause (h) were published in one and the same notification or separately. If the latter, it will be necessary to issue two separate notifications for amending the two notifications. The H.D. is requested to clarify the position in order to enable this office to settle the preamble of the proposed draft notification.

2. New rule 4(II)B:- The expression "opening before 5 A.M." in item (ii) of this rule would allow the keeper to open his shop at any time after it is closed at 1 A.M. e.g. he can nominally close it at 1 A.M. (S.T.) and again open it. Similar position obtains under item (iv). The intention underlying items (ii) and (iv) in so far as they provide for the opening hour requires to be clarified; items (ii) and (iv) appear to be particular cases of item (iii) and may perhaps safely be omitted.

3. License Fee in respect of the whole period from 9 P.M. to 5 A.M. has been fixed under item (iii) at Rs.20/-while that fixed under items (ii) and (iv) which may cover a less period, is fixed at Rs.20/- and 30/- respectively. The H.D. is, therefore, requested to varify whether items (ii) and (iv) do not require further examination.

Sd/- N.K.D. 20/7
for Remembrancer of Legal Affairs.

B.K.S.

U.R. to H.D. No.5932, dated the 21st July 1942.